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December 13, 2011

Chief George Turner
Atlanta Police Department
226 Peachtree Street, S.W.
Atlanta, Georgia 30303

RE: Complaints of Renee Bailey and
Latoya Johnson, Case #11-70

MAYOR OF ATLANTA

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ATLANTA CITY COUNCIL

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Dear Chief Turner:

The Atlanta Citizen Review Board ("ACRB") completed its investigation and adjudication of the complaints filed by Renee Bailey and Latoya Johnson alleging that Officers Charles Royal and Michael Walker falsely imprisoned them during a dispute over a gratuity at the Bliss Spa located inside the W Hotel at 45 Ivan Allen Blvd.

The interviews with both complainants produce a similar fact pattern in which they describe how they were redeeming a coupon for a spa treatment and when they were checking out from the spa there was a dispute over the mandatory gratuity for the service. According to the complainants, the managers of the hotel and spa detained them during which they contacted 911 to have the police respond to the location. When Officer's Royal and Walker arrived, they advised the complainants they could either pay the gratuity or go to jail. Both complainants claim when they continued to refuse to pay the gratuity, Officer Walker placed Ms. Bailey in handcuffs and Officer Royal began to place Ms. Johnson in handcuffs when Ms. Bailey indicated that she would pay the full gratuity. Afterwards, Ms. Bailey was un-cuffed and she and Ms. Johnson were allowed to leave with a criminal trespass warning.

Officers Royal and Walker were interviewed concerning the complaint. According to Officer Walker, when he arrived at the location, the manager explained to him that the complainants refused to pay the gratuity on the full price for the spa treatment as indicated on the coupon. Officer Walker then claimed the manager said the complainants could either pay the required gratuity or pay the full price of the treatment. Officer Walker then stated he advised the complainants they could either pay the gratuity or go to jail; after which, the complainants still refused. According to Officer Walker, he placed a handcuff on Ms. Bailey when she agreed to pay the full gratuity and both complainants were allowed to leave the location.

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An interview was conducted with Officer Charles Royal regarding his role in the incident. According to Officer Royal, he arrived at the location with Officer Walker and began to investigate the incident. Officer Royal indicated that the manager of the Spa claimed that the complainants were refusing to pay the required gratuity as the coupon, in their possession, indicated. Like Officer Walker, Royal stated he also advised the complainants that they could either pay the gratuity or go to jail. According to Officer Royal, the complainants continued to refuse to pay the gratuity so Officer Walker began to place the complainant (*Ms. Bailey*) in handcuffs. Then he began to handcuff the other complainant (*Ms. Johnson*), when Ms. Bailey stated she would pay the gratuity; after which, they were allowed to leave.

The Board considered the evidence and voted unanimously to recommend a finding of Sustained be applied to both Officer's Royal and Walker in the allegation of false imprisonment. In both interviews, the Officer's indicated they believed the refusal to pay the gratuity was considered to be "theft of services." According to Georgia O.C.G.A 16-8-5 theft of Services is defined as the following:

" A person commits the offense of theft of services when by deception and with the intent to avoid payment he knowingly obtains services, accommodations, entertainment, or the use of personal property which is available only for compensation."

Accordingly, both officers indicated that they understood the dispute between the management and the complainants was over a gratuity not the payment for the service provided. Having understood this, the officers should have known that this dispute did not meet the required threshold for theft of services. The failure to pay a required gratuity is a matter best suited for the civil courts. In conclusion, after learning the origin of the dispute, the officers subsequent detention and handcuffing of the complainants with the threat of jail on the condition of payment was inappropriate and not within APD policy. The Board recommends a written warning for both Officers' Royal and Walker for violation of APD work rule 4.1.1 Appropriate Action required with additional training in the area of customer disputes.

Please let me know if you have any additional questions or concerns or if you would like a copy of the full investigation. The ordinance requires that the chief respond in writing regarding which recommendations are accepted, rejected, or will be implemented with modifications within thirty (30) days of the submission of a recommendation for action by the board to the chief. See Sec. 2-2211 (O) of Ordinance 07-0-0141

Sincerely,



Joy Morrissey,
Board Chair

cc: Mayor Kasim Reed
Council President Caesar Mitchell
Members of Atlanta City Council
ACRB Members
Kenneth Siegel, Corporate Counsel Starwood Properties
General Manager, W Hotel, Downtown Atlanta
General Manager, Bliss Spa W Hotel, Downtown Atlanta
ACRB Investigator Marc Addington